

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ALLYSON HENRY,

Plaintiff,

v.

IAC/INTERACTIVECORP and EXPEDIA,
INC.,

Defendants.

CASE NO. C05-1510RSM

ORDER GRANTING IN PART AND
DENYING IN PART MOTION FOR
PROTECTIVE ORDER RE: RULE 30(b)(6)
WITNESS

This matter comes before the Court on defendant IAC/Interactivecorp's Motion for Protective Order regarding plaintiff's Rule 30(b)(6) Deposition Notice. (Dkt. #113). Defendant asks this Court to quash the deposition notice in its entirety, or, in the alternative, to limit the requested discovery, provide IAC with additional time to prepare its witnesses and order plaintiff to re-note the deposition to a location within reasonable proximity to IAC's principle place of business in New York City.

Plaintiff argues in response that defendant has not established good cause for the protective order it seeks, has not met its burden to quash the notice because it has sought summary judgment on the same subjects raised in that notice, and has failed to justify taking the deposition in a location near New York City. (Dkt. #127).

The Court has reviewed defendant's motion, plaintiff's response, defendant's reply, plaintiff's

1 supplemental briefing, and the remainder of the record. Accordingly, the Court does hereby find and
2 ORDER:

3 (1) Defendant's Motion for Protective Order Re: Rule 30(b)(6) Witnesses (Dkt. #113) is
4 GRANTED IN PART and DENIED IN PART as follows:

5 a. Request to Quash: Defendant's request to quash the deposition notice in its entirety is
6 DENIED. The Court agrees with plaintiff that such action is not appropriate given that defendant has
7 moved for summary judgment, upon which this Court has recently ruled, on the same subjects raised in
8 the Notice.

9 b. Location of Deposition: Defendant argues that plaintiff has failed to demonstrate any
10 unusual circumstances that would justify taking a Rule 30(b)(6) deposition at a location other than
11 defendant's principle place of business. Plaintiff acknowledges that there is a presumption that the
12 deposition of a corporate officer is taken at the corporation's principal place of business, but argues
13 that the presumption can be overcome, and should be in this case, where factors of convenience and
14 judicial economy are present. The Court is not persuaded.

15 Essentially, plaintiff argues that it would neither be convenient or cost effective for her counsel
16 to travel to New York City, or another location in that area, to take the 30(b)(6) deposition she
17 noticed. She does not allege any financial hardship as a basis for her motion. Courts have viewed the
18 convenience of counsel as one of the least compelling reasons to depart from the principal place of
19 business presumption, *Devlin v. Transp. Communications Int'l Union*, 2000 WL 28173 at *3-4
20 (S.D.N.Y. 2000), and the Court is not so compelled in this case. Accordingly, the Court GRANTS
21 defendant's motion for Protective Order preventing plaintiff from noticing its 30(b)(6) deposition in
22 Seattle, WA. Plaintiff is hereby directed to take defendant's Rule 30(b)(6) deposition at a location in
23 or near New York City, unless the parties come to a mutual agreement for taking the deposition at a
24 different location.

25 ORDER
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1 c. Authentication of Documents: Defendant next argues that plaintiff's notice seeking
2 authentication of approximately 300 documents is unduly burdensome. Defendant essentially argues
3 that it needs more time to review the documents than allowed in the original deposition notice. In
4 light of the fact that the deposition did not take place as noticed, and the original notice date has long
5 since passed, the Court finds this request moot.

6 d. Relevancy/Category 2: Finally, defendant argues that plaintiff's proposed topics fail to
7 meet the reasonable particularity standard. Plaintiff asks defendant to produce a witness who can
8 testify to:

9 For the period January 1, 2002 through December 31, 2004, the involvement of IAC
10 or its predecessor(s) in the following employment matters of Expedia.com, Expedia,
11 Inc., and the other brands or businesses of IAC Travel: hiring, employment
12 contracts, salary, promotions, demotions, transfers, discipline, leaves of absence,
performance evaluations, complaints, investigation of complaints, and approval or
adoption of company policies, procedures or decisions regarding any of the above
matters.

13 (Dkt. #114, Ex. A).

14 In conclusory fashion, defendant argues that the discovery sought in this request is not relevant
15 to this lawsuit, apparently relying on the arguments set forth in its previously-filed motion for summary
16 judgment. However, the Court denied summary judgment, finding that genuine issues of material fact
17 exist with respect to the question of whether IAC was plaintiff's employer. (Dkt. #152). Therefore,
18 the Court finds no basis to limit the topic in any fashion, and DENIES defendant's request for a
19 Protective Order directing such limitation.

20 Defendant also complains that it was not given enough time to prepare a Rule 30(b)(6) witness
21 on this topic. The Court agrees that defendant should be allowed appropriate time to prepare and
22 produce a Rule 30(b)(6) witness. Accordingly, the Court directs the parties to meet-and-confer with
23 respect to an appropriate deposition date. If the parties cannot come to an agreement, nothing in this
24 Order prevents plaintiff from noticing the deposition as she would in the normal course of litigation.

1 (2) The Clerk shall forward a copy of this Order to all counsel of record.

2 DATED this 3rd day of November, 2006.

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4 RICARDO S. MARTINEZ
5 UNITED STATES DISTRICT JUDGE
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